

United States District Court
Eastern District of Michigan

United States of America

ORDER OF DETENTION PENDING TRIAL

v.

Jay Yarbrough /

Case Number: 08-30325

Defendant

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I – Findings of Fact

✓ (1) I find that:

- ☐ there is probable cause to believe that the defendant has committed an offense
- ☐ for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 841 or 846;
- ✓ under 18 U.S.C. § 924(c).

✓ (2) I further find that the defendant has not rebutted the presumption established by finding that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings

✓ I find that the government has established by a preponderance of the evidence that there is a serious risk that the defendant will not appear.

✓ I find that the government has established by clear and convincing evidence that there is a serious risk that the defendant will endanger the safety of another person or the community.

Part II – Written Statement of Reasons for Detention

✓ I find that the credible testimony and information submitted at the hearing established the following factors under 18 U.S.C. § 3142(g):

- ✓ (a) nature of the offense - Distribution of heroin, use of firearm in connection with a drug offense, felon in possession of a firearm.
- ✓ (b) weight of the evidence - Very strong evidence based upon sales of drugs to a federal agent (2).
- ✓ (c) history and characteristics of the defendant -
 - ✓ 1) physical and mental condition - Long term drug abuser; positive drug test.
 - ✓ 2) employment, financial, family ties - No assets or significant employment; minimal contacts.
 - ✓ 3) criminal history and record of appearance - Three prior felonies and one drug misdemeanor conviction.
- ☐ (d) probation, parole or bond at time of the alleged offense -
- ✓ (e) danger to another person or community - Defendant is a professional drug dealer. He has at least two failures to appear, and was a fugitive for eight years from a drug prosecution. He threatened to harm the undercover officer and a suspected informant after he was arrested. He has employed at least two alias identities. He has little to keep him from absconding, and he faces significant imprisonment upon conviction. The presumption in favor of detention is un rebutted. Independent of the presumption, I view this defendant as a danger to the community as well as a significant flight risk. Pretrial Services recommends detention. I fully agree.

Part III – Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: July 25, 2008

s/Donald A. Scheer

Signature of Judge

Donald A. Scheer, United States Magistrate Judge

Name and Title of Judge